

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JEFFERY GLENN STOUT \$
VS. \$ CIVIL ACTION NO. 4:05cv71
DIRECTOR - TDCJ \$

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Jeffery Glenn Stout, an inmate confined at the Eastham Unit, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court referred this matter to the Honorable Don D. Bush, United States Magistrate Judge, at Sherman, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the petition be dismissed as barred by limitations.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. See FED. R. CIV. P. 72(b).

Petitioner asserts that his petition should not be barred by the limitations period. Further, petitioner claims he is actually innocent of the charges against him because no evidence was

introduced showing that the victim suffered trauma to her genitalia.

After careful consideration, the court concludes Petitioner's objections should be overruled. As the magistrate judge observed, petitioner's petition is barred by the applicable one-year limitations period. Further, petitioner's claims are barred by the doctrine of procedural default.

Additionally, petitioner's claims are without merit and should be denied. Petitioner has failed to demonstrate that the State court adjudication of his claims either resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States or resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

O R D E R

Accordingly, Petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this 25th day of January, 2006.

A handwritten signature in black ink, reading "Michael H. Schneider", is written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE